

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matters of:)
)
EXPORT MATERIALS, INC.)
3727 Greenbrier Drive, No. 108)
Stafford, Texas 77477,)
)
and)
)
THANE-COAT INTERNATIONAL, LTD.)
Suite C, Regent Centre)
Explorers Way)
P.O. Box F-40775)
Freeport, The Bahamas,)
)
Respondents)
)
)

DECISION AND ORDER ON RENEWAL OF TEMPORARY DENIAL ORDER

On October 31, 1997, Acting Assistant Secretary for Export Enforcement Frank W. Deliberti issued a Decision and Order on Renewal of Temporary Denial Order (hereinafter "Order" or "TDO"), renewing for 180 days a May 5, 1997 Order naming Thane-Coat, Inc.; Jerry Vernon Ford, president, Thane-Coat, Inc.; Preston John Engebretson, vice-president, Thane-Coat, Inc.; Export Materials, Inc.; and Thane-Coat International, Ltd. (Export Materials, Inc. And Thane-Coat International, Ltd. hereinafter collectively referred to as the "Respondents" and Thane-Coat, Inc., Ford, and Engebretson, the "affiliated parties"), as persons temporarily denied all U.S. export privileges. 62 *Fed. Reg.* 60063-60065 (November 6, 1997). The Order will expire on April 29, 1998.

On April 9, 1998, pursuant to Section 766.24 of the Export Administration Regulations (15 C.F.R. Parts 730-774 (1997)) (hereinafter the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1998)) (hereinafter the "Act"),¹ the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (hereinafter "BXA"), requested that the Assistant Secretary for Export Enforcement renew the Order against Thane-Coat International, Inc. and Export Materials, Inc. for an additional 180 days.

In its request, BXA stated that, as a result of an ongoing investigation, it had reason to believe that, during the period from approximately June 1994 through approximately July 1996, Thane-Coat, Inc., through Ford and Engebretson, and using its affiliated companies, Thane-Coat International, Ltd. and Export Materials, Inc., made approximately 100 shipments of U.S.-origin pipe coating materials, machines, and parts to the Dong Ah Consortium in Benghazi, Libya. These items were for use in coating the internal surface of prestressed concrete cylinder pipe for the Government of Libya's Great Man-Made River Project.² Moreover, BXA's investigation gave it reason to believe that the Respondents and the affiliated parties employed a scheme to export

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), and August 13, 1997 (62 *Fed. Reg.* 43629, August 15, 1997), continued the Regulations in effect under the International Emergency Economic Powers Act (currently codified at 50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

² BXA understands that the ultimate goal of this project is to bring fresh water from wells drilled in southeast and southwest Libya through prestressed concrete cylinder pipe to the coastal cities of Libya. This multibillion dollar, multiphase engineering endeavor is being performed by the Dong Ah Construction Company of Seoul, South Korea.

U.S.-origin products from the United States, through the United Kingdom, to Libya, a country subject to a comprehensive economic sanctions program, without the authorizations required under U.S. law, including the Regulations. The approximate value of the 100 shipments at issue was \$35 million. In addition, the Respondents and the affiliated parties undertook several significant and affirmative actions in connection with the solicitation of business on another phase of the Great Man-Made River Project.

BXA has stated that it believes that the matters under investigation and the information obtained to date in that investigation support renewal of the TDO issued against the Respondents.³ BXA believes that a temporary denial order is necessary to give notice to companies in the United States and abroad that they should cease dealing with Thane-Coat International, Inc. and Export Materials, Inc. in export-related transactions involving U.S.-origin goods.

Based on BXA's showing, I find that it is appropriate to renew the order temporarily denying all U.S. export privileges of Thane-Coat International, Ltd. and Export Materials, Inc. I find that such renewal is necessary in the public interest to prevent an imminent violation of the Regulations and to give notice to companies in the United States and abroad to cease dealing with these persons in any commodity, software, or technology exported or to be exported from the United States and subject to the Export Administration Regulations, or in any other activity subject to the Regulations. Moreover, I find such renewal is in the public interest in order to reduce the

³ On April 17, 1998, BXA requested that the Assistant Secretary for Export Enforcement renew the October 31, 1997 TDO against Thane-Coat, Inc., Jerry Vernon Ford, and Preston John Engebretson.

substantial likelihood that Thane-Coat International, Inc. and Export Materials, Inc. will engage in activities which are in violation of the Regulations.

ACCORDINGLY, IT IS THEREFORE ORDERED:

FIRST, that Thane-Coat International, Ltd., and all of its successors or assigns, officers, representatives, agents, and employees when acting on its behalf, and Export Materials, Inc., and all of its successors or assigns, officers, representatives, agents, and employees when acting on its behalf (hereinafter referred to collectively as the "denied persons"), may not directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
- C. Benefiting in any way from any transaction involving any item exported, or to be exported, from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

SECOND, that no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of any denied person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition, or attempted acquisition, by any denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby any denied person acquires, or attempts to acquire, such ownership, possession or control;
- C. Take any action to acquire from, or to facilitate the acquisition or attempted acquisition from any denied person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from any denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
- E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by any denied person, or service any item, of whatever origin, that is owned, possessed or controlled by any denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this

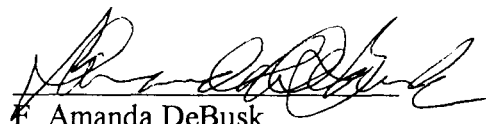
paragraph, servicing means installation, maintenance, repair, modification or testing.

THIRD, that, after notice and opportunity for comment, as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to any denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services, may also be made subject to the provisions of this Order.

FOURTH, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

This Order, which constitutes final agency action in this matter, is effective immediately and shall remain in effect for 180 days.

A copy of this Order shall be served on each Respondent and this Order shall be published in the *Federal Register*.


F. Amanda DeBusk
Assistant Secretary
for Export Enforcement

Entered this 24th day of April, 1998.